

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

C.M.D, etc., et al.

No. C 12-1216 RS

Plaintiffs,

v.

**ORDER RE POTENTIAL STAY OF
PROCEEDINGS**

FACEBOOK, INC.,

Defendant.

Subsequent to the time the pending motion to dismiss in this action was taken under submission, an order issued preliminarily approving a settlement in *Fraley v. Facebook*, C 11-01726 RS. In connection with seeking leave to intervene in *Fraley*, plaintiffs represented that a prior version of a settlement agreement in *Fraley* would, if approved and consummated, “wipe out all” of the claims in this action. Plaintiffs now contend that the scope of the proposed release in *Fraley* is unclear, and they object to Facebook’s suggestion that this action be stayed pending the final approval hearing in *Fraley*.

While the propriety of final approval of the *Fraley* settlement is yet to be determined, there is a substantial likelihood that further proceedings in that matter will have an impact here. Even assuming the *Fraley* settlement, if approved, would not entirely dispose of this action, it conceivably will narrow the claims these plaintiffs here can pursue, thereby requiring further amendment of the

1 complaint. At a minimum, it appears likely that further briefing regarding the impact of *Frale*y on
2 the claims here may become necessary.

3 Plaintiffs understandably complain that Facebook has not formally moved for a stay in this
4 action and should not be able to obtain one merely by proposing it in a Case Management
5 Conference Statement. Nevertheless, proceeding with a fully-noticed stay motion at this juncture
6 would not serve judicial efficiency. Accordingly, within 20 days of the date of this order, plaintiffs
7 may file a brief setting forth any arguments they may have as to why this action should not be
8 stayed pending a ruling on final settlement approval in *Frale*y, and/or any alternative proposals for
9 addressing the potential effect of the *Frale*y proceedings on the pending motion to dismiss and the
10 balance of this litigation. Within seven days thereafter, Facebook may file a response. The Case
11 Management Conference set for December 20, 2012 is continued to February 14, 2013 at 10:00 a.m.

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14 IT IS SO ORDERED.

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16 Dated: December 14, 2012

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RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE